REMARKS

In the Office Action mailed June 2, 2004, restriction was required between two Groups of claims Group I including claims 1 – 55, 60 – 69, 77 – 81 and 84 – 95; and Group II including claims 56 – 59, 70 – 76 and 82 – 83.

Applicants respectfully elect the claims of Group 1 with traverse.

In this regard it is suggested that the claims are not "independent and distinct" as required by 35 USC 121 but are closely related and not distinct. In this regard an abstract from a speech by the late Judge Giles Rich is attached; and his emphasis on the conjunction "and" between "independent and distinct" should be noted.

In addition, it is noted that claims 74, 75, 76 and 83 in Group II (as well as claim 96) all specifically include "wrist support" or wrist configuration.

In addition, where the Group II claims define structures which are applicable to the wrist, the Group II claims are not distinct from the Group 1 claims as required by 35 USC 121 for proper restriction.

New claim 96 is submitted for consideration along with the other claims in this application.

We are also enclosing another print of the Change of Address previously sent to the United States Patent and Trademark Office on February 27, 2004, and request that this address be used. Thank you.

In view of the foregoing, an action on all claims is respectfully solicited.

Applicant hereby authorizes the Commissioner to charge any additional fees, which may be required, or credit any overpayment to Deposit Account No. 06-2425.

Should such additional fees be associated with an extension of time, Applicant respectfully requests that this paper be considered a petition therefore.

Respectfully submitted,

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Enclosed: Speech by Judge Giles Rich
Change of Address Notice

55454.1

Alan C. Rose

Transcript of Address

By

GILES S. RICH

On

The Patent Act of 1952

THE NEW YORK PATENT LAW ASSOCIATION

November 6, 1952

Sec. 119

Section 119 is the priority part of 4887 rewritten with a new requirement for a certified copy of the foreign application. It does not apply to patents which issue before the 1st of January. The Official Gazette of August 26, 1952 prints a notice on the practice in this respect. You must file the certified copy before the patent issues, if it issues after January 1st, or you will lose your priority date. (Rules 55, 216 and 224)

Sec. 120

Section 120 gives co-pending applications the benefit of the filing date of a parent case, but only if there is in the later application a specific reference to the earlier one. Some people have questioned whether this would apply to more than one succession, one application in succession to one parent; I think that, on careful reading, you will agree that the number of generations of the lineage is unlimited. (New Rule 78 requires a statement of the serial number and filing date, and also of the relationship between the two applications.)

Sec. 121

Section 121 is a tightening up of the law on division in favor of the patentees. The present statutes do not refer to the subject. Note the conjunctive expression "independent and distinct inventions." Requiring that the inventions be both independent and distinct makes it easier to keep two of them in one case. (New Rule 142.) What is now called a requirement for division will hereafter be a "requirement for restriction."

There is an innovation in Section 121, in that it provides that neither the parent nor the divisional patent, where there is copendency, can be used as a reference against the other application or patent. This is directed at those annoying rejections that one of your own inventions is not patentably distinguishable from another of your inventions.

Compare the Traitel Marble Co. Case, 22 F. 2d 259 (CCA-2), decided by Judge Learned Hand, holding that such patents are not proper references against each other. To take advantage of this section it would be well to let the Patent Office decide on restriction in doubtful cases.